

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6353 OF 2022

PETITIONERS :-

1. The State of Maharashtra, through its Secretary, Revenue and Forest Department, Mantralaya, Mumbai-400 032.
2. The State of Maharashtra, Through its Secretary, Food and Supplies and Consumer Protection Department, Mantralaya, Mumbai-32.
3. The Divisional Commissioner, Amravati Division, By pass road Camp, Amravati Dist.Amravati.
4. Divisional Enquiry Officer, Amravati, Division Amravati, C/o. Divisional Commissioner Office, By pass road, Camp Amravati, Dist.Amravati.

...VERSUS...

RESPONDENT :-

Pradeep Lalsingh Pawar, Aged about 50 years, Occup. Service as Tahsildar Murizapur, Tah.Murtizapur, Dist.Akola.

Mr.N.S.Rao, AGP for the petitioners.
Mr.V.B.Gawali, counsel for respondent.

**CORAM : SUNIL B.SHUKRE &
ANIL L.PANSARE, JJ.**

DATE : 19.10.2022.

ORAL JUDGMENT (Per :Sunil B.Shukre, J.)

(1) Heard.

(2) Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

(3) The only contention of the learned counsel for the respondent is that due to pendency of the departmental enquiry, promotion to the next higher post has been denied to the respondent, who is presently working as Tahsildar and this is evident from the fact that promotion order has been issued to several other officers, who are placed below the respondent in the seniority list. This is how, learned counsel for the respondent, submits that prejudice has been caused to the respondent due to pendency of the departmental enquiry proceedings.

(4) We are not inclined to accept the argument for the reason that there is no order whatsoever passed by the authority, specifically denying promotion to the respondent on the ground

that any departmental enquiry is pending. On the contrary, it is seen from the documents available on record, particularly the list of the officers whose names were considered for promotion during the 2019 promotion process, that name of respondent has been kept in a sealed envelope. The learned counsel for the respondent has no idea as to what is stated in the sealed envelope. There is nothing on record from which this Court can infer that the envelope contains an order of denial of promotion to the respondent. Therefore, at this stage, we must say, that the respondent has failed to clearly demonstrate occurrence of prejudice to him because of the pendency of the departmental enquiry proceedings. This aspect of the case has not been considered in any manner by the Maharashtra Administrative Tribunal while allowing the original application by the impugned order. This is the law well settled by the Apex Court in some of the judgments including the judgment rendered in the case of **State of M.P and anr. Vs.Akhilesh Jha and another** reported in **2022(1) Mh.L.J 557**.

(5) In the result, we find merit in the Writ Petition. The Writ Petitions is allowed. Impugned order is hereby quashed and set aside, however, liberty is granted to the respondent to demonstrate the case of the prejudice caused to him because of the pendency of the departmental enquiry for a long period of time before the enquiry officer and disciplinary authority. We direct the disciplinary authority to pass the final order after following due process of law as expeditiously as possible and preferably within a period of four weeks from the date of the order.

(6) Rule is made absolute in the above terms. No costs.

(ANIL L.PANSARE ,J)

(SUNIL B. SHUKRE,J)